

ORIGINAL
MEMORANDUM



0000018963

30

TO: Docket Control

FROM: Ernest ^{EGJ}G. Johnson
Director
Utilities Division

DATE: April 18, 2005

RE: STAFF REPORT IN THE MATTER OF THE COMPLAINT OF MOHAVE ELECTRIC COOPERATIVE AND APPLICATION OF UNISOURCE ENERGY SERVICES CORPORATION FOR REVERTING TO IT A PORTION OF MOHAVE ELECTRIC COOPERATIVE'S CERTIFICATE OF CONVENIENCE AND NECESSITY (DOCKET NOS. E-01750-04-0798; E-04204A-0798; E-04230A-04-0798; E-04204A-04-0824; AND E-01750A-04-0824)

Attached is the Staff Report addressing Mohave Electric Cooperative's ("Mohave") complaint against Unisource Energy Services Corporation ("UniSource") for not entering into a system-wide borderline agreement to provide electric service to one of its customers Central Trucking, Inc. ("CTI, Inc."). Staff recommends that UniSource be required to provide electric service to CTI, Inc. either on a permanent basis or under a specific Electric Service Authorization Agreement.

EGJ:PKB:red

Originator: Prem Bahl

Arizona Corporation Commission

DOCKETED

APR 18 2005

DOCKETED BY	CM
APR 18 P 2:10	RECEIVED
ARIZONA CORPORATION COMMISSION DOCKET CONTROL	

SERVICE LIST FOR: UNS Electric, Inc. and Mohave Electric Cooperative, Inc.
DOCKET NOS.: E-04204A-04-0824, E-01750A-04-0824 and E-04230A-04-0798

Mr. Michael A. Curtis
Mr. William P. Sullivan
CURTIS, GOODWIN, SULLIVAN, UDALL & SCHWAB, P.L.C.
2712 North Seventh Street
Phoenix, AZ 85006-1090

Mr. Thomas H. Campbell
Mr. Michael T. Hallum
LEWIS & ROCA LLP
40 N. Central Avenue
Phoenix, AZ 85004

Ms. Michelle Livengood
Legal Department
Tucson Electric Power Company
One South Church Avenue
P.O. Box 711
Tucson, AZ 85702-3664
Attorneys for UNS Electric, Inc.

Mr. Terrence G. O'Hara
Central Trucking, Inc.
11930 N. Hartman Dr.
Edinburgh, IN 46124

Mr. Christopher Kempley
Chief Counsel, Legal Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

Mr. Ernest G. Johnson
Director, Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

**STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION**

**MOHAVE ELECTRIC COOPERATIVE
UNISOURCE ENERGY SERVICES CORPORATION**

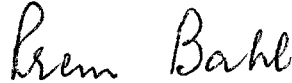
**DOCKET NOS. E-04230A-04-0798, E-04204A-04-0824
and E-01750A-04-0824**

**COMPLAINT OF MOHAVE ELECTRIC COOPERATIVE AND
APPLICATION OF UNISOURCE TO REVERT ITS ORIGINAL PIECE OF
CERTIFICATE OF CONVENIENCE AND NECESSITY**

APRIL 18, 2005

STAFF ACKNOWLEDGMENT

The Staff Report for Mohave Electric Cooperative and UniSource Energy Service Company (Docket Nos. E-04230A-04-0798; E-04204A-04-0824, and E-01750A-04-0824) was the responsibility of the Staff member listed below. Prem Bahl was responsible for the review and analysis of the Companies' Applications.

A handwritten signature in cursive script that reads "Prem Bahl".

Prem Bahl
Utilities Electrical Engineer

TABLE OF CONTENTS

	<u>PAGE</u>
I. PURPOSE.....	1
II. BACKGROUND	1
III. PROCEDURAL ORDER.....	2
IV. STAFF'S ANALYSIS OF THE ISSUES.....	3
A. WHO IS IN A BETTER POSITION TO SERVE, MEC OR UNS?	3
B. SYSTEM-WIDE BORDERLINE AGREEMENT.....	4
V. STAFF'S CONCLUSIONS AND RECOMMENDATIONS	4

ATTACHMENTS

MEC's Geographical Map Showing CTI's Property.....	Exhibit 1
MEC's Certificated Area of Service.....	Exhibit 2
UNS' Existing Distribution Line Adjacent to CTI's Property	Figure 1
UNS' Existing Line to Microwave Tower	Figure 2

EXECUTIVE SUMMARY
MOHAVE ELECTRIC COOPERATIVE
UNISOURCE ENERGY SERVICES CORPORATION

**DOCKET NOS. E-04230A-04-0798, E-04204A-04-0824 and
E-01750A-04-0824**

On November 5, 2004, Mohave Electric Cooperative, Inc. ("Mohave" or "MEC") filed with the Arizona Corporation Commission ("Commission") a Complaint in Docket No. E-04230A-04-0798 ("Complaint Docket") against UniSource Energy Services Corporation ("UniSource") for: 1) refusing to provide wholesale service to Mohave under an Open Access Transmission Tariff ("OATT"); and 2) for refusing to negotiate in good faith to a system-wide borderline agreement with Mohave to provide electric service to one of Mohave's customers, Central Trucking, Inc. ("CTI").

On November 15, 2004, UNS Electric, Inc. ("UNS") filed with the Commission an application in Docket Nos. E-04204A-04-0824 and E-01750A-04-0824 ("Transfer Dockets") seeking to have territory that was previously within the certificated service territory of UNS' predecessor, Citizens Utilities Company ("Citizens"), revert to UNS.¹ MEC currently holds the Certificate of Convenience and Necessity ("CC&N" or "certificate") for the territory that is in dispute, and in which CTI's property is located, pursuant to Decision No. 58798 (October 14, 1994). UNS contends that Mohave was granted the portion of the service area in question solely for the purpose of serving a specific customer, North Star Steel Company ("North Star"), which is no longer in business. UNS denies the material allegations in the Complaint in the Transfer Dockets and asserts that it is willing and able to provide immediate electric service to CTI with facilities that are adjacent to CTI's property.

¹ UNS is a subsidiary of UniSource that provides electric service in Mohave County. UNS acquired the Certificate of Convenience and Necessity of Citizens' Mohave Electric Division pursuant to Decision No. 66028 (July 3, 2003).

On January 31, 2005, the Commission issued an Emergency Order for Provision of Electric Service ("Emergency Order") (Decision No. 67535). In the Emergency Order, the Commission directed UNS to immediately provide electric service to CTI, on an interim basis, until the issues raised in the Complaint and Transfer Dockets are resolved.

According to MEC, CTI would have to pay MEC an estimated \$600,000 under its line extension policy without a purchase for resale agreement between MEC and UniSource. CTI refused to pay \$600,000 to MEC to receive electric service from MEC. The Commission has ordered UNS to immediately provide service to CTI on an interim basis, until the conclusion of this case. According to UNS, electric service was provided to CTI the day after the Commission order was issued.

It is Staff's view that UNS is in a better position to provide electric service to CTI than MEC because its existing distribution facilities are no more than 300 feet away. MEC's distribution facilities are over ten miles away. MEC has not indicated any likelihood of extending its back-bone distribution system in the vicinity of CTI in the near future. Subject to the Commission decision in this case, UNS could also provide service to CTI, based on a specific Electric Service Authorization Agreement between UNS and MEC, contingent on mutually agreed upon conditions. UNS has expressed a willingness to provide electric service to CTI under such an agreement.

MEC has requested that UNS enter into a system-wide borderline agreement with MEC to serve not only CTI, but also any other future load in MEC's territory. This has been requested in case MEC's distribution service is not available or the necessary infrastructure cannot be constructed for lack of economic justification to meet such future load. Staff is not aware of any system-wide borderline agreement between any two utilities in Arizona. MEC's offer to serve CTI with a diesel generator was not accepted as a viable option.

Based on the above noted analysis of the issues in this case, it is Staff's conclusion that:

1. MEC is unable to provide electric service to CTI in a cost-effective manner in the near future.
2. Staff further concludes that the system-wide borderline agreement that MEC has requested of UNS to enter into for serving CTI does not seem to be applicable.

Staff recommends that UNS should be required to provide service to CTI on a permanent basis or under a specific Electric Service Authorization Agreement with MEC, subject to mutually agreed upon conditions. This recommendation was made in light of the fact that: 1) UNS' distribution system is adjacent to the CTI's property; and 2) MEC has not indicated any likelihood of extending its back-bone distribution system, which is more than ten miles away, in the vicinity of CTI in the foreseeable future. According to MEC, such an extension of its system is contingent upon load development in the area.

I. Purpose

The purpose of this report is to discuss the feasibility of providing electric service to CTI in a cost-effective and reliable manner. The report also addresses the question of a system-wide borderline agreement versus a specific borderline agreement between UNS and MEC.

II. Background

On November 5, 2004, Mohave Electric Cooperative, Inc. ("Mohave" or "MEC") filed with the Arizona Corporation Commission ("Commission") a Complaint in Docket No. E-04230A-04-0798 ("Complaint Docket") against UniSource Energy Corporation ("UniSource") alleging, among other things, that UniSource refused to provide wholesale service to Mohave under an Open Access Transmission Tariff ("OATT"), and that UniSource refused to negotiate in good faith a system-wide borderline agreement with Mohave. MEC's request to UniSource stemmed from its need to provide electric service to a customer, Central Trucking, Inc. ("CTI") that seeks to construct a building to conduct business in Mohave's certificated service area.

On November 15, 2004, UNS Electric, Inc. ("UNS") filed with the Commission an application in Docket Nos. E-04204A-04-0824 and E-01750A-04-0824 ("Transfer Dockets") seeking to have territory that was previously within the certificated service territory of UNS' predecessor, Citizens Utilities Company ("Citizens"), revert to UNS². MEC currently holds the Certificate of Convenience and Necessity ("CC&N" or "certificate") for the territory that is in dispute and where CTI's property is located, pursuant to Decision No. 58798 (October 14, 1994). A geographical map of the area under this CC&N is attached as Exhibit 1. MEC's certificated service area, including the service area in dispute and the subject of this hearing, is shown on Exhibit 2. UNS contends that Mohave was granted the portion of the service area in question

² UNS is a subsidiary of UniSource that provides electric service in Mohave County. UNS acquired the Certificate of Convenience and Necessity of Citizens' Mohave Electric Division pursuant to Decision No. 66028 (July 3, 2003).

solely for the purpose of serving a specific customer, North Star Steel Company ("North Star"), which is no longer in business. (North Star was later bought by an entity by the name of Nucore.) UNS states that because the disputed area was previously served by Citizens, and North Star is no longer in business, the CC&N area in which CTI is located should revert³ to UNS as Citizens' successor in interest. UNS denies the material allegations in the Complaint in the Transfer Dockets and asserts that it is willing and able to provide immediate electric service to CTI with facilities that are adjacent to CTI's property.

On January 11, 2005, UNS filed a letter sent to Mohave requesting that Mohave enter into an Electric Service Authorization Agreement that would allow UNS to immediately provide service to CTI, on an interim basis, while the Complaint and Transfer Dockets are pending for Commission decision.

On January 31, 2005, the Commission issued an Emergency Order for Provision of Electric Service ("Emergency Order") (Decision No. 67535). In the Emergency Order, the Commission directed UNS to immediately provide electric service to CTI, on an interim basis, until the issues raised in the Complaint and Transfer Dockets are resolved.

III. Procedural Order

On February 18, 2005, the Commission Hearing Officer issued a Procedural Order concerning the aforementioned dockets. Among other matters, the Procedural Order set forth the date, time and place of the next hearing in this case. The Procedural Order further directed Commission Staff ("Staff") to file a written Staff Report and/or any testimony and associated exhibits to be presented at the hearing.

³ Pursuant to a Letter Agreement dated May 3, 1994, between Citizens (now UNS) and MEC under Tab B of Answer and Motion for Dismissal of the Complaint Docket.

IV. Staff's Analysis of the Issues

A. Who is in a Better Position to Serve, MEC or UNS?

According to MEC, CTI would have to pay MEC an estimated \$600,000 under its line extension policy without a purchase for resale agreement between MEC and UniSource. CTI refused to pay the \$600,000 to MEC for electric service. MEC and UniSource are in disagreement as to the requirement for a Federal Energy Regulation Commission ("FERC") tariff to effectively allow the sale of UniSource Energy to CTI through MEC. As stated earlier, the Commission has ordered UNS to immediately provide service to CTI on an interim basis, until the conclusion of this case. According to UNS, electric service was provided to CTI the day after the Commission order was issued.

It is Staff's view that UNS is in a better position to provide electric service to CTI than MEC since its existing distribution facilities are approximately only 300 feet away. MEC has not indicated any likelihood of extending its back-bone distribution system in the vicinity of CTI in the near future. Subject to the Commission decision in this case, UNS could also provide service to CTI, based on a specific Electric Service Authorization Agreement between UNS and MEC, contingent on mutually agreed upon conditions. UNS has expressed a willingness to provide electric service to CTI under such an agreement. Staff is not aware of Mohave having agreed to negotiate such an agreement with UniSource.

Figure 1 shows that UNS' existing distribution line is adjacent to CTI's property, and approximately only 300 feet away from the point of service to CTI. Figure 2 shows UNS' existing service to a microwave facility from across CTI's property.

B. System-wide Borderline Agreement

MEC has requested that UNS enter into a system-wide borderline agreement with MEC to serve not only CTI, but also any other future load in MEC's territory. MEC has made this request in case MEC's distribution service is not available nor can be constructed for lack of economic justification to meet such future load. However, generally speaking, borderline agreements between two utilities are location specific and identify which loads for what length of time would be served by one of the utilities on behalf of the other. Staff is not aware of any system-wide borderline agreement between any two utilities in Arizona. MEC has also been unable to provide such information and is still in the process of researching it. MEC has also not provided to Staff MEC's plan to economically and reliably serve CTI and other projected loads in the service territory for which MEC is seeking system-wide borderline agreement. MEC's offer to serve CTI with a diesel generator was not accepted as a viable option.

V. Staff's Conclusions and Recommendations

Based on the above noted analysis of the issues in this case, it is Staff's conclusion that:

1. MEC is unable to provide electric service to CTI in a cost-effective manner in the near future.
2. Staff further concludes that the system-wide borderline agreement that MEC has requested of UNS to enter into for serving CTI does not seem to be applicable.

Staff recommends that UNS should be required to provide service to CTI on a permanent basis or under a specific Electric Service Authorization Agreement with MEC, subject to mutually agreed upon conditions. This recommendation was made in light of the fact that: 1) UNS' distribution system is adjacent to the CTI's property; and 2) MEC has not indicated any

likelihood of extending its back-bone distribution system, which is more than ten miles away, in the vicinity of CTI in the foreseeable future.

EXHIBIT 1

UNS' Existing Distribution Line Adjacent to CTI's Property

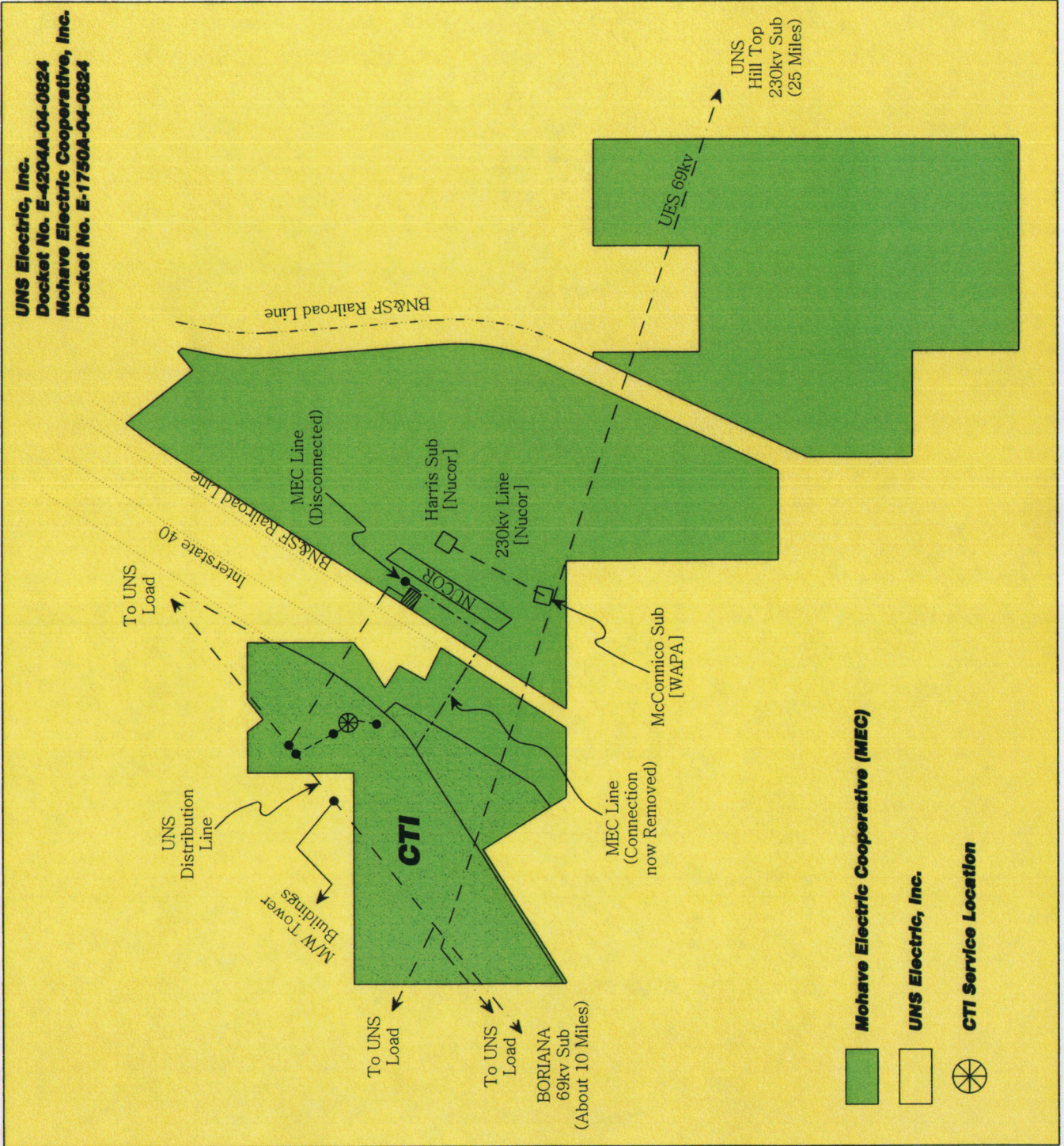


EXHIBIT 2
MEC's Certificated Area of Service

UNS Electric, Inc.
Docket No. E-4204-04-824
Mohave Electric Cooperative, Inc.
Docket No. E-1750-04-824

**BULLHEAD
CITY**

OATMAN

GOLDEN SHORES

KINGMAN



MOHAVE ELECTRIC COOPERATIVE



MOHAVE ELECTRIC AREA SHOWN IN EXHIBIT 1



UNS ELECTRIC, INC.

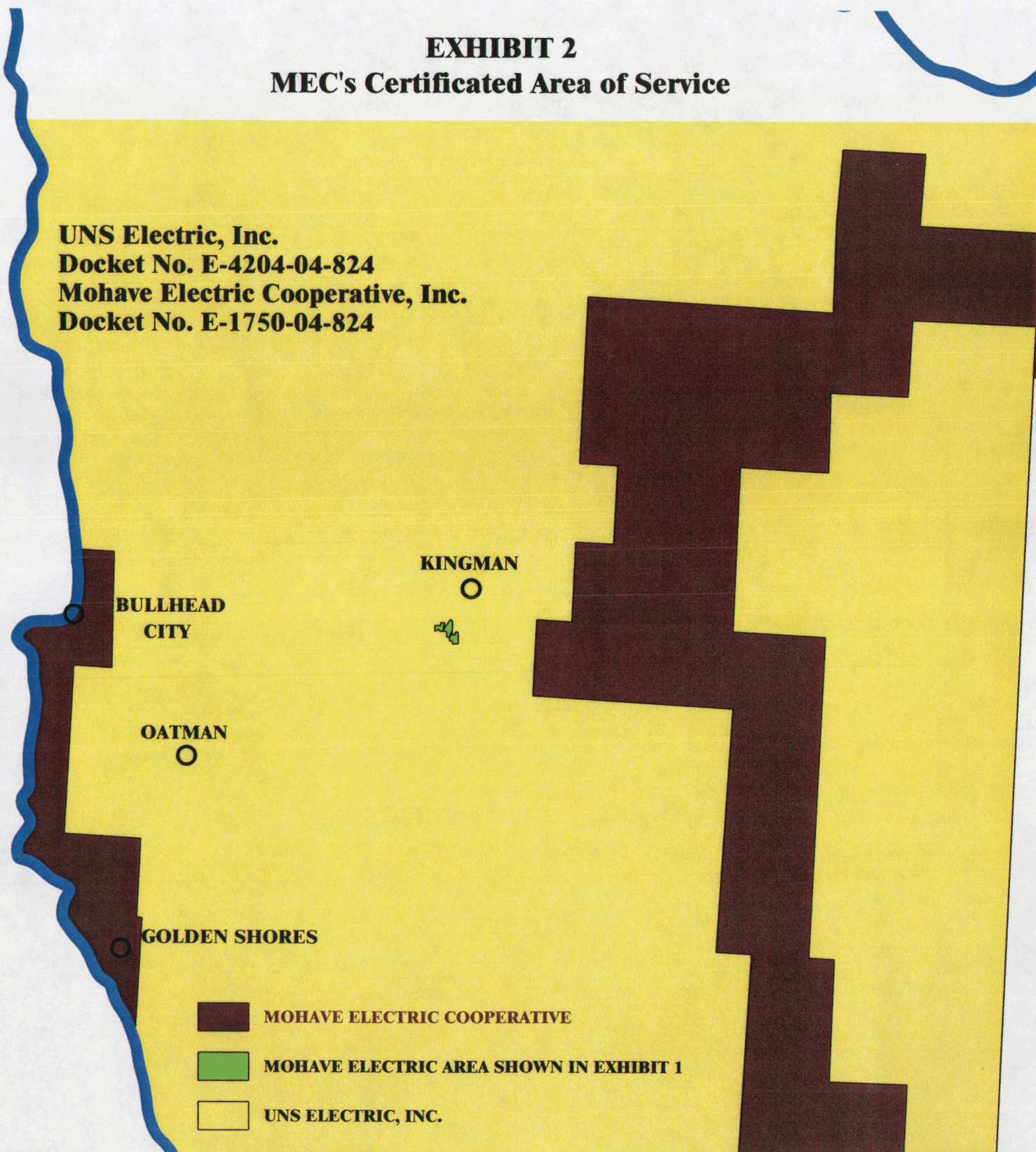




Figure 1
UNS' Existing Line Adjacent to CTI's Property

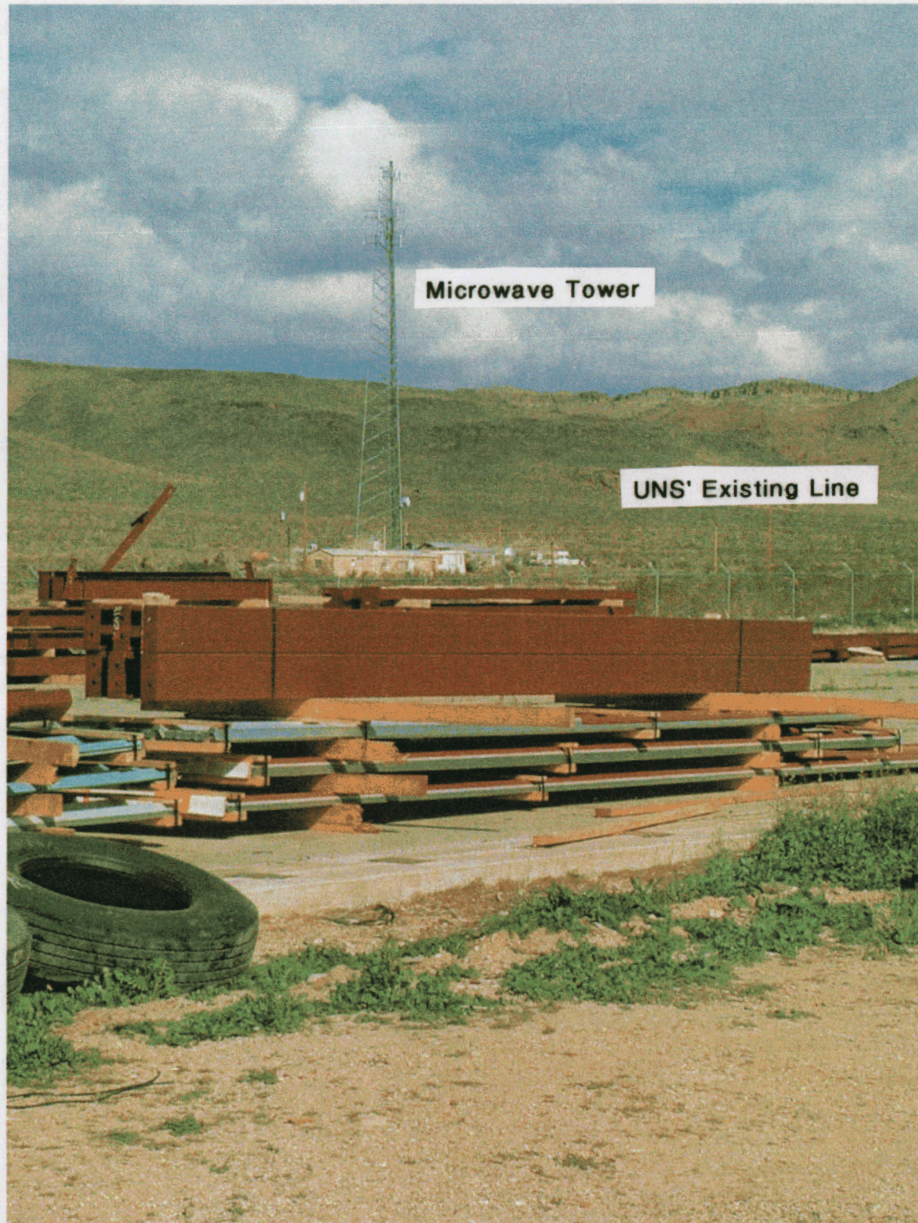


Figure 2
UNS' Existing Line to Microwave Tower